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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,214	01/23/2004	Edward A. Zumbiel	RWZ/77	9137

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EXAMINER

DURAND, PAUL R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/764,214	Applicant(s) ZUMBIEL ET AL.	
	Examiner Paul Durand	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/6/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard (US 4,700,528) in view of Killy (US 4,396,143) and in further view of Littmann (US 5,229,180).

In regard to claims 1-5,8,13 and 16, Bernard discloses the invention substantially as claimed including wrapping a filled package 36 with shrink wrap 26, completely covering the package and forming a composite package 44, with a convenience feature in the form of holes 41 and 42, which is accessible to a user outside a package (see Fig.8 and C3,L25 – C5,L21). What Bernard does not disclose is the use of a formed carton, which is filled and has the shrink-wrapped scored. However, Killy teaches that it is old and well known in the art of packages to provide a case 10, with convenience features in the form of handles 24 and dispenser 50, filling the case with beverages 52, such that each beverage is bounded by the carton for the purpose of forming a case and allowing access to it (see Figs. 1,2 and C2,L48 – C3,L420). Furthermore, Littmann teaches that it is old and well known in the art of packaging to provide a scored film 10 with laser scoring 18 and metal strip 19 functioning as a die and proximate and aligned with a convenience feature in the form of reclosable tape 20 for the purpose of making a

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package easier to open (see Figs. 1,2 and C5,L40-47). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Bernard with the carton as taught by Killy and the scoring means as taught by Littmann for the purpose of forming an easy open and accessible package.

In regard to claims 7 and 15, Bernard discloses the invention substantially as claimed including a convenience feature 41 and 42 that is accessible without removing any items from the package (see Fig. 8).

In regard to claim 6 and 14, Bernard discloses the invention substantially as claimed including providing a filled package 36, which is packaged at a separate place other than the wrapping machine (see Fig.8)

In regard to claims 11,12,19 and 20, the modified invention of Bernard discloses the invention substantially as claimed including a scored area 18, which is proximate and aligned with a convenience feature in the form of reclosable tape 20 and applied prior to wrapping. What the modified invention of Bernard does not disclose is the scoring application being applied after the wrapping is formed. However, it would have been an obvious matter of design choice to have provided the laser after the wrapper application, since applicant has not disclosed that applying the laser scoring after the wrapper application solves any stated problem or is for any particular purpose and it appears the invention would do equally well with the scoring applied before the wrapping.

In regard to claims 9,10,17 and 18, the modified invention of Bernard discloses the invention substantially as claimed including a wrapping film 26 fed from a single roll 35. What the modified invention of Bernard does not disclose is the wrapping material having different colors of indicia and utilizing multiple rolls of material. However, it would have been an obvious matter of design choice to have provided a wrapping material having different colors of indicia and utilizing multiple rolls of material, since applicant has not disclosed that providing a wrapping material having different colors of indicia and utilizing multiple rolls of material solves any stated problem or is for any particular purpose and it appears the invention would do equally well with a clear single roll of wrapping material.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ayer et al, Morgese et al, Ullman, Bryan, Bell, Miller, Apps and Clay have been cited to show devices having similar structure.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand
September 8, 2004



EUGENE KIM
PRIMARY EXAMINER